

2. Plaintiff, Factory Mutual Insurance Company (“Factory Mutual”), is an insurance company incorporated in the State of Rhode Island, with its principal place of business located at 270 Central Avenue, Johnston, RI 02919, and at all times material hereto, was authorized to issue policies of insurance in the Commonwealth of Pennsylvania.

3. Defendant, Keystone Fire Protection Co. (“Keystone Fire”), is a corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania with a principal place of business located at 433 Industrial Drive, North Wales, Pennsylvania 19454, and at all times material hereto, was engaged in the business of designing, installing, inspecting, servicing and maintaining fire protection systems.

JURISDICTION AND VENUE

4. The jurisdiction of this Court is based upon diversity of citizenship pursuant to 28 U.S.C. §1332. The matter in controversy, exclusive of interest and costs, exceeds the sum of seventy-five thousand dollars (\$75,000). Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(a).

FACTS

5. At all times material hereto, plaintiffs each provided insurance coverage to HCP, Inc. with respect to the property located at 3535 Market Street, Philadelphia, PA 19104 (the “Premises”).

6. Prior to June 30, 2016, Keystone Fire was retained to perform the annual sprinkler system inspection and full flow test of the fire pump at the premises.

7. On June 30, 2016, as Keystone Fire finished performing the annual sprinkler system inspection and full flow test of the fire pump and started to close the valves, a loud boom was heard and it was discovered that a six-inch water line which served as the fire protection water main for the premises had ruptured.

8. The subject six-inch water line which served as the fire protection water main for the premises was discovered to have suffered a crack on an outlet side of an elbow.

9. The subject water discharge flooded certain areas causing damage and destruction to the premises.

10. Pursuant to the terms and conditions of the aforementioned policies of insurance, plaintiffs have made payments to their insureds, HCP, Inc., in an amount in excess of \$150,000.

11. As a result of plaintiffs' aforesaid payments to HCP, Inc. pursuant to the contracts of insurance, and by operation of law, plaintiffs are subrogated to the rights of HCP, Inc. against all parties responsible for the occurrence of said damages.

COUNT I

12. Plaintiffs incorporate the allegations of paragraphs 1 through 11 as though fully set forth at length herein.

13. The subject water discharge and the resulting damage sustained by plaintiffs' subrogor were caused by the carelessness, negligence and negligent omissions of defendant Keystone Fire, its agents, servants and/or employees acting within the scope and course of their employment in:

- a. failing to take adequate precautions to prevent the subject water discharge and resulting damages;
- b. failing to properly and adequately instruct, train and supervise the work of its agents, servants and/or employees;

- c. failing to recognize and/or warn of conditions which created a foreseeable risk of water damage;
- d. failing to take all necessary and reasonable precautions to safeguard the subject premises against the risk of harm by water damage;
- e. failing to safeguard the six-inch water line which served as the fire protection water main for the premises;
- f. failing to safeguard against unintended property damage;
- g. failing to protect other property from being damaged;
- h. failing to hire competent agents, workmen, and/or employees to inspect, test and service the subject fire pumps;
- i. failing to act with due and reasonable care so as to prevent a rupture of the six-inch water line which served as the fire protection water main for the subject premises;
- j. performing its work and services in a careless and negligent manner;
- k. failing to properly and adequately inspect, test and otherwise perform the full flow test of the fire pump;
- l. failing to properly and adequately close the valves on the test header so as to prevent a water hammer;
- m. otherwise failing to use due care under the circumstances.

14. As a direct and proximate result of the foregoing, plaintiffs sustained damages as aforesaid, for which defendant is liable to plaintiffs.

WHEREFORE, plaintiffs, Chubb Custom Insurance Company and Factory Mutual Insurance Company, demand judgment against defendant Keystone Fire Protection Co. in an amount in excess of one hundred fifty thousand dollars (\$150,000) together with interest and the cost of this action.

COZEN O'CONNOR

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